

In re) Fair Hearing No. 21,091
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Appeal of)

The petitioners appeal the decision by the Department for Children and Families, Economic Services Division, terminating their coverage under the Vermont Health Access Program (VHAP) for failure to pay the program premium.

1. The petitioners, R.H. and G.H., are married with two minor children. Their children are provided medical insurance through the Dr. Dynasaur program. Petitioners first received VHAP coverage starting in 2002.

2. The petitioners received timely notice dated August 20, 2007 informing them that their VHAP coverage would end August 31, 2007 because the Department had not received their premium. Petitioners were further notified that VHAP coverage would continue if the premium payment was received before coverage ended.

3. The petitioners are self-employed. Based on their cash flow, petitioners remit their premium payments to the

Department at the end of the month. G.H. handles the payments to the Department.

4. G.H. testified that she mailed the VHAP premium to the Department on or about August 29, 2007.

5. On September 4, 2007, the petitioners learned that their VHAP coverage had ended when payment was denied for a marriage counseling session held that day.

6. The Department had closed the petitioners' VHAP coverage because the check was postdated for September 30, 2007. G.H. testified that she did not mean to postdate the check. G.H. testified that she was very upset the end of August due to marital problems. G.H.'s testimony that she made an inadvertent mistake is credible.

7. Upon learning that their VHAP coverage was closed, G.H. immediately contacted the Department on September 4, 2007 to find out why their coverage was closed and how to reinstate coverage for September. Despite daily contact with the Department, G.H. did not learn about the postdated check until September 7, 2007 when she received the postdated check in the mail. On September 10, 2007, G.H. paid the premium amount. G.H. also remitted a premium payment on September 24, 2007.

8. The petitioners' VHAP coverage was reinstated October 1, 2007. VHAP coverage for the month of September remains an issue.

ORDER

The Department's decision is affirmed.

REASONS

The Department adopted regulations establishing monthly premiums as a cost sharing mechanism for the VHAP program effective January 1, 2004. W.A.M. § 4001.91. VHAP recipients are sent monthly bills asking for payment by the 15th of the month to cover services for the following month. If the Department does not receive payment by the 15th of the month, the Department mails notice eleven days before the proposed termination date informing VHAP recipients that coverage will end unless payment is received by the termination date. W.A.M. § 4002.3(B).

Petitioners normally paid their VHAP premiums just before the proposed termination date. Petitioners' problem arose through a mistake, postdating the check for September's payment. The Department could not process the postdated check and closed the petitioners' VHAP coverage due to

nonpayment of the premium. The Department was correct in not accepting payment and closing coverage for September.

The VHAP rules reference the Medicaid rules, specifically the Medicaid cost-sharing rules found at M150. M150.1(B) allows for reinstatement of benefits if payment is received by the first business day following the last day of the month in which payment was due. In this case, that date would be Tuesday, September 4, 2007 since September 3, 2007 was a holiday. Unfortunately, petitioners' did not remit payment until September 10, 2007. As a result, petitioners are foreclosed from reinstatement of benefits for September.

Petitioners intended to pay September's premium. Unfortunately, neither the facts nor equitable principles provide a basis for reinstatement. Petitioners once again have VHAP coverage as of October 1, 2007.

Inasmuch as the Department's decision is in accord with the pertinent regulations, the Board should affirm their decision. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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